



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107

Mr. John Voortman
P.O. Box 313A
R.D. #1
Center Valley, PA 18034

SEP 11 1986

Re: Access for Pennsylvania Department of
Environmental Resources

Dear Mr. Voortman:

I am writing in reference to the battery casings problem on your property. As you know, the battery casings located on your property have caused your property to be placed on EPA's "Superfund" list. I understand from Joe Kozlosky of the Pennsylvania Department of Environmental Resources (PADER) that you do not believe these casings present an environmental threat and that for this or other reasons have decided not to let PADER have access on your property to study what, if anything, should be done about the casings.

While I realize that you feel frustrated, you must understand that once a site is placed on EPA's Superfund list, the only way to remove it from the list is to either have the site cleaned up or have the appropriate Federal or State agency determine no such cleanup need take place. In either case, a study of the problem must and will be made.

This brings me back to the access question. The State has entered into an agreement with EPA which authorizes PADER to perform the Superfund study of the battery casings on your property. PADER is negotiating contracts at this very moment to perform the study. If you will not give PADER voluntary permission to come on your property, the United States Department of Justice has agreed to file a lawsuit in Federal District Court to have the Court order you to allow PADER on your property to perform the study.

Any voluntary agreement on your part cannot be contingent upon a waiver of liability for any cost involved in studying and/or cleaning up the battery casings on your property. As far as EPA is concerned, owners of the property on which hazardous substances are stored are responsible under Superfund for the cost of studying and cleaning up the hazardous substances. (You should note, however, that just because a party is liable for these costs does not mean they will be asked to reimburse EPA or the State for these costs in every

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instance. The decision on cost recovery will be made at a later time and is dependent on a variety of factors).

Because PADER plans to sign its contracts to study the site in the near future, time is of the essence. If you do not notify PADER by September 17, 1986 that they can have all the access to your property necessary to perform the study of the battery casings, I will ask the United States Department of Justice to prepare and file the necessary papers to secure such access for the PADER.

Please call me at (215) 597- 8916 if you would like to discuss this matter. I apologize if this letter appears brusque in terms to you. I do not intend it to be so. Rather, I am just trying to make you aware that the time has come for EPA and PADER to study the battery casing problem on your property and that one way or another that is what we are going to have to do.

Again, please call me if you have any questions on this matter.

Sincerely,

Jim Heenehan

Jim Heenehan
Assistant Regional Counsel

cc: M. Harrell (U.S. DOJ)
L. Shull (3HW21)
K. Rader (3RC21)
M. Holland (PADER)
J. Kozlosky (PADER)

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